

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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In re: BAIR HUGGER FORCED AIR  
WARMING DEVICES PRODUCTS  
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:  
All Actions

**DECLARATION OF COREY L.  
GORDON IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTIONS TO  
EXCLUDE TESTIMONY OF  
THEODORE HOLFORD AND  
JONATHAN BORAK**

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Corey L. Gordon, being first duly sworn, deposes and declares:

I am an attorney at the law firm of Blackwell Burke P.A., and one of the attorneys representing 3M Company and Arizant Healthcare Inc. (together, "Defendants") in this litigation. I submit this declaration in support of Defendants' Opposition to Plaintiffs' Motions to Exclude Testimony of Theodore Holford and Jonathan Borak. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.

1. Attached as Defendants' Exhibit DX1 is a true and correct copy of Theodore Holford's Expert Report.
2. Attached as Defendants' Exhibit DX2 is a true and correct copy of the transcript of the deposition of Theodore Holford.
3. Attached as Defendants' Exhibit DX3 is a true and correct copy of Jonathan Borak's Expert Report.

4. Attached as Defendants' Exhibit DX4 is a true and correct copy of the transcript of the deposition of Jonathan Borak.

5. Attached as Defendants' Exhibit DX5 is a true and correct copy of P. McGovern et al., "Forced-air warming and ultra-clean ventilation do not mix," 93B(11) *J. Bone & Joint Surgery* 1537 (2011).

6. Attached as Defendants' Exhibit DX6 is a true and correct copy of S. Khan et al., "Reduced short-term complications and mortality following Enhanced Recovery primary hip and knee arthroplasty: results from 6,000 consecutive procedures," 85(1) *Acta Orthopaedica* 26 (2014).

7. Attached as Defendants' Exhibit DX7 is a true and correct copy of excerpts from the transcript of the deposition of Plaintiffs' expert Dr. Jonathan Samet.

8. Attached as Defendants' Exhibit DX8 is a true and correct copy of C.R. Ramsay et al., Interrupted time series designs in health technology assessment: Lessons from two systematic reviews of behavior change strategies," 19(4) *Int. J. Tech. Assessment in Health Care* 613 (2003).

9. Attached as Defendants' Exhibit DX9 is a true and correct copy of the transcript of the deposition of Michael R. Reed.

10. Attached as Defendants' Exhibit DX10 is a true and correct copy of excerpts from the transcript of the deposition of Paul McGovern, Volume I.

11. Attached as Defendants' Exhibit DX11 is a true and correct copy of Exhibit 7 from the deposition of Plaintiffs' expert Jonathan Samet, which is an email from Mark Albrecht to Mike Reed, dated January 31, 2011.

12. Attached as Defendants' Exhibit DX12 is a true and correct copy of excerpts from Exhibit 8A from the deposition of Paul McGovern, which is the McGovern authors' response to reviewer comments.

13. Attached as Defendants' Exhibit DX13 is a true and correct copy of the transcript of the deposition of Mark Albrecht, Volumes I and II.

14. Attached as Defendants' Exhibit DX14 is a true and correct copy of Exhibit 10 from the deposition of Mark Albrecht, which is a spreadsheet of McGovern study data produced by Augustine in response to subpoena for documents.

15. Attached as Defendants' Exhibit DX15 is a true and correct copy of Exhibit 16 from the deposition of Paul McGovern, which is a spreadsheet of a subset of data for Wansbeck General Hospital.

16. Attached as Defendants' Exhibit DX16 is a true and correct copy of excerpts from the transcript of the deposition of Paul McGovern, Volume II.

17. Attached as Defendants' Exhibit DX17 is a true and correct copy of Exhibit 12 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to Mike Reed, dated May 27, 2012, identified as Albrecht\_0003579.

18. Attached as Defendants' Exhibit DX18 is a true and correct copy of C.D. Jensen et al., "Return to theatre following total hip and knee replacement, before and after the introduction of rivaroxaban," 93B(1) *J. Bone & Joint Surgery* 91 (2011).

19. Attached as Defendants' Exhibit DX19 is a true and correct copy of Michael Mont's Expert Report.

20. Attached as Defendants' Exhibit DX20 is a true and correct copy of excerpts from the transcript of the deposition of Dr. Richard Wenzel.

21. Attached as Defendants' Exhibit DX21 is a true and correct copy of O. Brimmo et al., "Rivaroxaban Use for Thrombosis Prophylaxis is Associated with Early Periprosthetic Joint Infection," 31(6) *J. Arthroplasty* 1295 (2016).

22. Attached as Defendants' Exhibit DX22 is a true and correct copy of A. Melling et al., "Effects of preoperative warming on the incidence of wound infection after clean surgery: a randomized controlled trial," 358 *Lancet* 876 (2001).

23. Attached as Defendants' Exhibit DX23 is a true and correct copy of C.J. Hickson et al., "Prophylactic antibiotics in elective hip and knee arthroplasty," 4(11) *Bone & Joint Res.* 181 (2013).

24. Attached as Defendants' Exhibit DX24 is a true and correct copy of A. Sprowson et al., "Changing antibiotic prophylaxis for primary joint arthroplasty affects postoperative complication rates and bacterial spectrum," 11 *Surgeon* 20 (2013).

25. Attached as Defendants' Exhibit DX25 is a true and correct copy of excerpts from Exhibit 7A from the deposition of Paul McGovern, which consists of drafts of the McGovern study.

26. Attached as Defendants' Exhibit DX26 is a true and correct copy of Exhibit 28 from the deposition of Mark Albrecht, which consists of emails from Paul McGovern to Mark Albrecht, dated February 16 to February 22, 2011, identified as Nachtsheim\_0000238.

27. Attached as Defendants' Exhibit DX27 is a true and correct copy of Exhibit 29 from the deposition of Mark Albrecht, which is an outline of BHS presentation with comments and revisions, identified as Nachtsheim\_0000251.

28. Attached as Defendants' Exhibit DX28 is a true and correct copy of Exhibit 30 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to David Leaper, dated January 23, 2010, identified as Litchy\_0000002.

29. Attached as Defendants' Exhibit DX29 is a true and correct copy of J. Gillson & G. Lowdon, "Implementing effective SSI surveillance." *Infection Control* 71 (Oct. 2014). Because the marked exhibit copy is difficult to read, a clean copy has been used.

30. Attached as Defendants' Exhibit DX30 is a true and correct copy of R. Refaie, "Prevention of periprosthetic joint infection," 3(3) *J. Truama & Orthopaedics* 50 (2015).

31. Attached as Defendants' Exhibit DX31 is a true and correct copy of Exhibit 31 from the deposition of Mark Albrecht, which is an email from Mark Albrecht to Mike Reed, dated July 9, 2010, identified as Nachtsheim\_0000838.

32. Attached as Defendants' Exhibit DX32 is a true and correct copy of F. Godlee et al., "Wakefield's article linking MMR vaccine and autism was fraudulent," *BMJ* (Jan. 6, 2011) (<http://www.bmj.com/content/342/bmj.c7452>).

33. Attached as Defendants' Exhibit DX33 is a true and correct copy of Editors of the *Lancet*, "Retraction – Ileal-lymphoid-nodular hyperplasia, non-specific colitis, and pervasive developmental disorder in children," 375 *Lancet* 445 (2010).

34. Attached as Defendants' Exhibit DX34 is a true and correct copy of excerpts from Exhibit 76 from the deposition of Al Van Duren, which is a PowerPoint presentation entitled, "Forced-air warming systems, OR air quality, and orthopedic SSI."

35. Attached as Defendants' Exhibit DX35 is a true and correct copy of Exhibit 24 from the deposition of Theodore Holford, A. Brister, "Infection Control in Orthopaedic Surgery," *Clin. Services. J.* (Nov. 9, 2011).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Minneapolis, Minnesota, this 3rd day of October, 2017.

s/Corey L. Gordon  
Corey L. Gordon